IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WP(C).No. 24067 of 2007(M)

PETITIONER:

SIYAD E.K.,
E.K. MANZIL, VALATHUNGAL, ERAVIPURAM, KOLLAM.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
EXCISE DEPARTMENT,
THIRUVANANTHAPURAM.

2. EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM.

3. ASSISTANT EXCISE COMMISSIONER,
KOLLAM.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO. 24067 OF 2007

DATED THIS THE 7th DAY OF AUGUST, 2007

JUDGMENT

The petitioner challenges Ext.P3 notice issued by the 3rd respondent, which according to the petitioner is a notice for sale of his vehicle. The petitioner submits that the concerned Magistrate has handed over the vehicle to the 3rd respondent for appropriate proceedings under Section 67 (B) of the Abkari Act. That being so, the 3rd respondent is duty bound to comply with the procedure prescribed under the Abkari Act before sale of the vehicle, is the contention raised.

2. The learned Government pleader points out that Ext.P3 is not a sale notice at all, but a notice inviting objections from anybody to the confiscation of the vehicles mentioned therein. On a perusal of Ext.P3 I am also satisfied that the same is not a sale notice at all. It only invites objections, if any, from anybody in proceeding under Section 67B(2) of the Abkari Act. Simply because the 3rd respondent has issued Ext.P3, I cannot assume that the 3rd respondent could not comply with the procedure prescribed by the Abkari Act for confiscation of seized vehicles involved in Abkari offence. That being so, I do not find any basis for the apprehension of the petitioner that

his vehicle is being confiscated and sold without following the procedure contemplated under the Act. I am sure that the 3rd respondent would pass orders on confiscation only after complying with the procedure prescribed under the Act. Therefore, the writ petition is dismissed.

S. SIRI JAGAN, JUDGE

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